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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,415	07/27/2001	Thomas Talanis	A34482-PCT-USA (071308.02)	8862
21003	7590	10/21/2004	EXAMINER	
BAKER & BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			SWEARINGEN, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,415

Applicant(s)

TALANIS ET AL.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/21/01
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-10 have been examined.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09916415, filed on 27 July 2001.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 1, item 9b; Figure 2, items 6-8 and 25; Figure 3, items 18-19 and 26. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. **Claims 1-3 and 6-8** rejected under 35 U.S.C. 102(e) as being anticipated by Mohammed et al. (U.S. Patent No. 6,421,728).

6. Regarding **Claim 1**, Mohammed discloses *a method for transmitting data over the Internet, comprising transmitting from a client a first connection request for setting up a first transmission channel via an Internet connection to an Internet Server, transmitting from a client a second connection request for setting up a second transmission channel via an Internet connection to the Internet Server, wherein the first transmission channel and the second transmission channel bidirectionally transmit and receive, independently of one another in terms of timing, data between the client and the Internet Server over the Internet, the first transmission channel being used as a back channel for transmitting user data from the Internet Server to the client, and the second transmission channel being used as a forward channel for transmitting requests from the client to the Internet Server* [Mohammed teaches a separate downstream (from the Internet Server to the client) and upstream (from the client to the Internet Server) connection between a server. See Mohammed, Column 3, lines 17-36, Figure 1. See Mohammed, Abstract.]. By this rationale **Claim 1** is rejected.

7. Regarding **Claim 2**, Mohammed discloses *wherein dummy data are transmitted in the absence of user data in order to maintain the transmission channels* [Mohammed discloses the use of poll packets, which Examiner considers as *dummy data*. See Mohammed, Column 10, line 10.]. By this rationale, **Claim 2** is rejected.

8. Regarding **Claim 3**, Mohammed discloses *wherein information is transmitted to the Internet Server in order to maintain the transmission channels, said information informing the Internet Server that there is an intention to transmit user data* [Mohammed discloses the use of command packets, which Examiner considers as *information transmitted...in order to maintain the transmission channels...informing...there is an intention to transmit user data*. See Mohammed, Column 10, line 10]. By this rationale, **Claim 3** is rejected.

9. Regarding **Claim 6**, the limitations of this claim are substantially the same as those in claim 1. Therefore the same rationale for rejecting claim 1 is used to reject claim 6. By this rationale **Claim 6** is rejected.

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10. Regarding **Claim 7**, the limitations of this claim are substantially the same as those in claim 2. Therefore the same rationale for rejecting claim 2 is used to reject claim 7. By this rationale **Claim 7** is rejected.

11. Regarding **Claim 8**, the limitations of this claim are substantially the same as those in claim 3. Therefore the same rationale for rejecting claim 3 is used to reject claim 8. By this rationale **Claim 8** is rejected.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 4-5 and 9-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Mohammed in view of Rogers et al. (US Pub. No. 2002/0143446).

14. Regarding **claim 4**, Mohammed discloses the invention substantially as claimed. Mohammed fails to disclose working with an automation system.

15. Rogers discloses *wherein data for operating and monitoring an automation system is provided over the Internet* [see Rogers, paragraph [0056]].

16. It would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Rogers' Internet-enabled automation system with the teachings of Mohammed, for the purpose of allowing an automation system to interact in real-time with a remote computer system [see Rogers, paragraph [0047]. Mohammed provides motivation to combine by stating the invention can be applied to all networks in general (see Mohammed, column 3, lines 23-26). By this rationale **Claim 4** is rejected.

17. Regarding **Claim 5**, Mohammed and Rogers are applied as in claim 4. Mohammed fails to disclose *wherein the client is an operator control and monitoring system which initiates the transmission*

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channels as a DCOM object, and in the setup of the connection to the automation system is made via a DCOM object.

18. Rogers discloses *wherein the client is an operator control and monitoring system which initiates the transmission channels as a DCOM object, and in the setup of the connection to the automation system is made via a DCOM object.* [Rogers' preferred environment uses ActiveX server technologies and controls. See Rogers, paragraph [0055]. Rogers explains that ActiveX is a Microsoft implementation of a component object model, which uses a Microsoft standard protocol called DCOM. See Rogers, paragraphs [0026]-[0027]. By this rationale **Claim 5** is rejected.

19. Regarding **Claim 9**, the limitations of this claim are substantially the same as those in claim 4. Therefore the same rationale for rejecting claim 4 is used to reject claim 9. By this rationale **Claim 9** is rejected.

20. Regarding **Claim 10**, the limitations of this claim are substantially the same as those in claim 5. Therefore the same rationale for rejecting claim 5 is used to reject claim 10. By this rationale **Claim 10** is rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jeffrey R. Swearingen
Examiner
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JRS

Will C. Vaughn
Primary Examiner
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